

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER: 1866.02  
 COMPLAINT INVESTIGATOR: Steve Starbuck  
 DATE OF COMPLAINT: February 4, 2002  
 DATE OF REPORT: March 5, 2002  
 REQUEST FOR RECONSIDERATION: no  
 DATE OF CLOSURE: May 17, 2002

**COMPLAINT ISSUES:**

Whether the North Harrison Community School Corporation and the Harrison County Special Education violated:

511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically:

- a. failing to check student comprehension during lesson;
- b. failing to utilize assignment sheets as described;
- c. failing to provide lecture notes in math class;
- d. failing to provide weekly progress reports;
- e. failing to allow the student additional time to complete assignments; and
- f. failing to provide the student with a separate testing environment.

511 IAC 7-27-2(d) by failing to note on the case conference committee (CCC) meeting notice that one of the purposes of the meeting was to discuss the school's proposal for an additional evaluation and the student's continued eligibility for special education.

511 IAC 7-27-3 by failing to include the student's teacher of record and a general education teacher in the January 28, 2002, CCC meeting.

**FINDINGS OF FACT:**

1. The student is fifteen years old, attends the ninth grade, and has been determined eligible for special education under the disability category of other health impairment.
2. The parents question whether the teachers are checking to see if the student is comprehending assignments as he is working on them. The parents were unable to identify specific instances where the teachers had failed to implement this accommodation. The student's IEP dated November 26, 2001, specifies that the student's comprehension throughout a lesson shall be checked. The IEP has a starting date of November 26, 2001, through May 2, 2002. The student participated in the following subjects during the first semester of the 2001-2002 school year: English, Spanish, Algebra, Biology, Health, and Basis Skill Development. Health class was replaced with physical education for the second semester of the 2001-2002 school year. Each of the student's teachers for the current school year provided written statements to the Division that explained how they checked the student's comprehension with assignments. The written

statements reflect that each of the student's teachers have implemented the accommodation as specified in the IEP.

3. The parents contend that assignment sheets and the binder to keep them in have not been utilized for the student on a consistent basis for biology and math, and on occasion for Spanish and English. It was the parents' understanding that each time the student received an assignment, the student would be responsible for writing it down and the teacher would initial it. Then the assignments would be placed in the binder so the parents would be aware of what assignments the student needed to complete. The student's IEP dated November 26<sup>th</sup> specifies the following:
  - a. use assignment notebook;
  - b. provide assignments in advance;
  - c. assignment sheets in binder; and
  - d. daily assignment sheets to be monitored by the TOR and parents.

In written statements provided by the student's teachers it is acknowledged that the teachers expect the student to initiate the writing of the assignment and then to obtain the teachers initials. The written statements reflect that the student does not routinely initiate this activity in five out of five classes where use of assignment sheets have been determined appropriate. Only one teacher reports that she checks the student's assignment notebook when the student forgets to record the assignments and have the teacher initial. Although the other teachers report doing some type of follow-up regarding assignments given to the student, the methods are not always timely and may not involve informing the parents of the assignments.
4. The parents state that they are uncertain as to whether the student has been receiving lecture notes for math class. They report that the student has started to take his own lecture notes. The parents are not aware of any specific instances where the student has not received lecture notes for math class. The student's IEP dated November 26<sup>th</sup> specifies that the student will be provided with lecture notes. The math teacher reports in a written statement that she checks the student's notes after notes have been given in class. The teacher reports that the student has been doing well for the past six weeks on copying notes in class. The teacher reports that based on progress made in this area, she has stopped providing the student with a copy of the lecture notes, but will provide the student with lectures notes should the student need them in the future.
5. The parents report that they have not received progress reports on a weekly basis as specified in the IEP. They also report that the biology teacher was to call them weekly to advise them of the student's progress made at school. The parents report the biology teacher has only called them on three occasions concerning progress made by the student. Four annual goals are listed in the student's IEP dated November 26<sup>th</sup>. The IEP specifies that the parents will be informed of the student's progress made toward achieving these goals on a weekly basis by a progress report or checklist. In addition, the Record of IEP/ITP Discussion form specifies that the biology teacher will call the student's mother each Friday to advise her of the student's progress. The school did provide some copies of progress reports issued for the student. However, the school was unable to provide documentation to verify that the parents actually received these progress reports. The school was not able to document that weekly progress reports or checklists concerning the annual goals were provided to the parents from the dated the IEP was to be implemented until the date the complaint was filed. In addition, the school was unable to provide evidence that the biology teacher called the mother each Friday to advise her of the student's progress made at school.
6. The parents contend that there may have been times when the student was not allowed an extra day to turn in assignments. The parents are not aware of any specific instances where the student has been denied the accommodation. The student's IEP dated November 26<sup>th</sup> specifies that the student will receive one extra day to turn in assignments. Written statements from the student's

biology, basic skills development, algebra, Spanish, and English teachers reflect that the student has been allowed an extra day to turn in assignments. The health teacher indicated in a written statement that he only allowed the student more time to turn in assignments if the student had been absent from school.

7. The parents contend that the student failed two semester exams because the student was given the exams in settings that had numerous distractions. The student failed semester exams for biology and English classes. In regards to testing, the student's IEP dated November 26<sup>th</sup> specifies that the student's testing area should be free of distractions. The IEP indicates that it is permissible to test the student individually and/or in a special education classroom. The IEP reflects that this particular accommodation is not mandatory. The teachers who gave the exams provided written statements explaining the type of setting in which the tests were administered. Both teachers report that the exams were given in the general education classroom and that the rooms were quiet and free of distractions. The teachers report that the classrooms were appropriate settings for the student to take the exams. The biology teacher reports the student only answered around 30 questions out of 300 questions listed on the test. The English teacher reports that students were given 50 minutes to complete the English exam and the student completed his exam in 21 minutes. The teacher reports that the student did not answer all of the questions on the exam, and declined an offer to complete more of the questions when given an opportunity to do so.
8. The parents allege that a CCC meeting was convened on January 28, 2002, and that the TOR and a general education teacher were not in attendance. In addition, the parents state that the notice advising them of the CCC meeting failed to include that the purpose of the meeting was to discuss the school's proposal for an additional evaluation and the student's continued eligibility for special education. The Case Conference Notification Letter dated January 18, 2002, reflects that a CCC meeting was to be held on January 28, 2002, for the purposes of discussing the student's IEP and parental concerns. The Notification Letter also indicates that the parents were notified of the CCC meeting scheduled for January 28<sup>th</sup> by telephone on January 18, 2002. The director states that a CCC meeting was not convened on January 28<sup>th</sup>; however, no documentation was provided to the Division to indicate that a CCC meeting did not take place. Notes of the meeting were recorded on the CCC meeting document entitled "Record of IEP/ITP Discussion." The form reflects that the reason the parents were at the meeting was to discuss non-implementation of the student's IEP and to request that the student be allowed to retake the biology and English semester exams. Due to the school's request for additional testing, the Record of IEP/ITP reflects that the parents expressed concern as to whether the student would remain eligible for special education. Based on the documents completed at the January 28<sup>th</sup> meeting, there is no evidence to indicate that school personnel ever questioned the student's eligibility for special education. The Addendum/Amendment to the IEP form dated January 28<sup>th</sup> indicates that the purpose of the meeting was to discuss retesting the student to determine his present levels of educational performance. The form reflects that the following individuals were in attendance at the meeting: parents, parent advocate, director, department chair, and principal. The student's IEP reflects that the student participates in the general education environment, but neither the TOR nor one of the student's general education teachers were present for the meeting convened on January 28<sup>th</sup>.

## CONCLUSIONS:

1. Finding of Fact #2 indicates that school personnel have been checking the student's comprehension during lessons as specified in the IEP dated November 26<sup>th</sup>. Therefore, no violation of 511 IAC 7-27-7(a) is found concerning this accommodation.

2. Finding of Fact #3 reflects that although the student's teachers have utilized the assignment sheets and the assignment book, this accommodation has not always been implemented timely and in a manner that has kept the parents apprised of the student's daily assignments. Therefore, a violation of 511 IAC 7-27-7(a) is found.
3. Finding of Fact #4 establishes that the math teacher has provided the student with lecture notes in math class when implementation of the accommodation was determined appropriate for the student. Therefore, no violation of 511 IAC 7-27-7(a) is found regarding this accommodation.
4. Finding of Fact #5 indicates that school personnel did not provide progress reports or checklists to the parents, or called the student's mother each Friday to advise her of the student's progress made at school as specified in the IEP and Record of IEP/ITP Discussion form dated November 26<sup>th</sup>. Therefore, a violation of 511 IAC 7-27-7(a) is found.
5. Finding of Fact #6 reflects that the student was not allowed an extra day to turn in assignments in health class as specified in the IEP dated November 26<sup>th</sup>. Therefore, a violation of 511 IAC 7-27-7(a) is found in regard to this accommodation.
6. Finding of Fact #7 reflects that the November 26<sup>th</sup> IEP requires testing of the student to be conducted in a distraction free area. The IEP also permits the student to be tested individually and/or in a special education classroom. Finding of Fact #7 establishes that teachers administering the tests were of the opinion that the testing sites were appropriate to conduct the tests, and that the testing areas were distraction free. Therefore, no violation of 511 IAC 7-27-7(a) is found.
7. Finding of Fact #8 establishes that a CCC meeting was convened on January 28, 2002, and that the notice of the meeting did not include the school's proposal for an additional evaluation. In addition, Finding of Fact #8 reflects that school personnel failed to include in the January 28<sup>th</sup> CCC meeting one of the student's general education teachers and the student's TOR. Therefore, violations of 511 IAC 7-27-2(d) and 511 IAC 7-27-3 are found.

**The Department of Education, Division of Exceptional Learners, requires the following corrective action based on the Findings of Fact and Conclusions listed above.**

**CORRECTIVE ACTION:**

The North Harrison Community School Corporation and the Harrison County Special Education shall:

1. Inservice all of the student's teachers as to implementation of the requirements specified in the student's IEP. Inservice all appropriate school personnel as to the requirements specified in 511 IAC 7-27-2(d) and 511 IAC 7-27-3. Submit documentation to the Division no later than April 10, 2002, to verify that the inservice training has been completed. The documentation shall include a list or an agenda of all issues discussed, any handouts that were distributed, and a list of attendees by name and title.
2. Convene a CCC meeting to determine the student's need for compensatory services for failing to implement the student's IEP as written. The CCC Report shall reflect that the CCC members thoroughly addressed the issue of the student's need for compensatory services. Submit to the Division no later than April 10, 2002, a copy of the CCC Report and any revised IEP.
3. Submit an assurance statement signed by the director to the Division no later than April 10, 2002, that ensures:

- a. the TOR will attend all CCC meetings;
- b. a general education teacher will attend all CCC meetings convened for students who are or may be participating in the general education environment;
- c. IEPs are implemented as written;
- d. the correct reason(s) for convening a CCC meeting are listed on the notice for the CCC meeting.

DATE REPORT COMPLETED: March 5, 2002